

35. **ISSUE: DAVID HENDERSHOTT ATTEMPTED TO RETALIATE AGAINST
MUNNELL FOR COOPERATING WITH OUTSIDE CRIMINAL
INVESTIGATIONS – SUBJECT: HENDERSHOTT**
(Munnell Memo p. 56)

Chief Deputy David Hendershott

H30A. Allegedly, Chief Deputy David Hendershott attempted to retaliate against Deputy Chief Frank Munnell and Deputy Chief Bill Knight for cooperating with the FBI investigation by threatening to transfer them, but was discouraged from this course of action by other members of the command staff, who deemed that such acts by Hendershott could be interpreted as retaliatory.

MUNNELL'S WRITTEN ACCOUNT

David Hendershott attempts to retaliate against Munnell for cooperating with FBI

On February 25, 2010 at about 1045 hours, I met with Lisa Allen and Loretta Barkell in Barkell's office. At this time Allen advised me that on February 16, 2010, David Hendershott had come into her office, closed the door, sat close to her, and said that he had received a call stating that I was a FBI source and that I was trying to get the Sheriff. He warned her that I might be wired and to watch what she said around me. He warned her not to discuss the matter with anyone and concluded the conversation with his typical "this conversation never happened."

Allen added that Hendershott had the same conversation with Chief of Custody Jerry Sheridan who Hendershott knows is a very close friend of mine. Allen asked me at the time not to discuss the matter with anyone to avoid any trouble with Hendershott. Although Allen was told by Hendershott not to discuss this matter with anyone, she was extremely nervous and upset and contacted Chief Barkell for guidance. Barkell did advise me during this meeting that no one could retaliate against me due to merit system and whistleblower rules.

On the morning of March 8, 2010, I met with Loretta Barkell in her office. She advised me that on Friday, February 26th, 2010, she was summoned to meet with Chief Hendershott and Deputy Chief Ray Churay. Hendershott advised Barkell and Churay that he had received a phone call stating that I was cooperating with the FBI. He said that he needed everyone to be careful while he figured out to do with Frank.

When Hendershott proposed removing me as Chief of Patrol under Chief Brian Sands and transferring me to report to Churay, Churay spoke first stating that it was not a good idea and that by taking action against me, it could be considered retaliation under the whistle blower laws and that I had certain protections. Barkell then stated that she understood the law the same and advised Hendershott not to transfer me. As a result of this meeting and the refusal of Churay and Barkell to cooperate the proposed retaliatory transfer did not take place. Hendershott took their advice and said he would consult with counsel.

On the morning of March 16th, 2010, I stopped by Loretta Barkell's office and her assistant Karen Andrews accompanied her. Barkell was visibly upset and on the verge of tears asking me whom I had spoke with regarding the meeting she had with Churay and Hendershott. I was at a loss as to how Hendershott knew that Barkell had advised me of Hendershott's ill-advised attempt to retaliate against me.

MCSO Investigation No. M081710, Principals: Hendershott, Black and Fox
Report of Administrative Investigation by PCSO
April 11, 2011

1 Barkell stated that on Monday, March 15th, 2010, Hendershott angrily came to her office and
2 summoned her to meet with you in your office and brought along Chief Jack Macintyre as a
3 witness. As you know, Hendershott angrily admonished her in front of you for talking to me about
4 that meeting, because I could have interpreted that meeting as a "retaliation" attempt, which it
5 clearly was. Barkell tried to explain that her responsibilities as the Executive Chief over Personnel
6 obligated her to advise me of Hendershott's actions. However, Hendershott would have none of it
7 and when Jack Macintyre attempted to speak he was silenced by Hendershott who told him he
8 didn't want any legal advice.

9
10 Hendershott was livid, frothing at the mouth, and spitting as he dressed Barkell down. Barkell
11 stated that in her professional capacity she advised an employee (Munnell) of his rights in a
12 grievance situation and he did not need to worry about retaliation. Hendershott stormed on and on
13 about how his counsel told him he needed to be on record talking with her. Barkell said that he
14 didn't see why Hendershott was so upset as any employee is entitled to know their rights and she
15 believed she was doing her job as the Human Resources Executive Chief. However, Hendershott
16 then ordered her to write a memorandum to you explaining what had occurred during her
17 conversation with me. She then provided a memorandum to you and you told her not to worry
18 about the matter.

19
20 What should be very troubling to you is the fact that Hendershott met with Chief Barkell and
21 Chief Ray Churay on February 26th, 2010 and attempted to retaliate against me for cooperating
22 with the FBI, but was rebuffed. However, that very same day, Attorney Tom Crow who was
23 retained to represent MCSO in matters related to the on-going Federal Grand Juries, made a call to
24 the U.S. Attorney's Office proclaiming that no MCSO employee, and specifically mentioned
25 Frank Munnell, would be retaliated against for cooperating with the FBI. It appears that
26 Hendershott made a panicked call to Mr. Crow after his aborted attempt at retaliation and directed
27 him to call the U.S. Attorney to cover his tracks.

28
29 As any reasonable person can imagine, the unethical actions of David Hendershott have created a
30 very hostile work environment for me. I have previously advised my immediate supervisor Chief
31 Brian Sands and Chief Loretta Barkell of the hostile work environment created by Hendershott,
32 his improper actions directed at me, and that I try to avoid any situations where I may come in
33 contact with him.

34
35 **WITNESSES LISTED BY MUNNELL**

| | | |
|----|---------------------------------|--|
| 36 | | |
| 37 | Executive Chief Loretta Barkell | Attended meeting/disagreed with Hendershott. |
| 38 | Deputy Chief Ray Churay | Attended meeting/disagreed with Hendershott. |
| 39 | Interim Chief Jerry Sheridan | Hendershott advised of Munnell and FBI. |
| 40 | Communications Lisa Allen | Hendershott advised of Munnell and FBI. |
| 41 | Deputy Chief Jack MacIntyre | Witness when Hendershott admonished Barkell. |
| 42 | Sheriff Arpaio | Witness when Hendershott admonished Barkell. |
| 43 | Dep. CA Clarisse McCormick | Met with Munnell regarding hostile work issue. |
| 44 | | |

45 **NARRATIVE SUMMARY**

46
47 Munnell recited a series of events, summarizing various meetings, where he learned of
48 Hendershott's efforts to take action against Munnell in a retaliatory manner.
49

2/16/10 Hendershott told Lisa Allen that she needs to watch what she says to Munnell because he is an FBI source who was "trying to get the Sheriff."

2/25/10 Munnell met with Lisa Allen and Loretta Barkell, where Barkell advises Hendershott of the 2/16/10 conversation with Hendershott. Allen advised that Hendershott had the same type of meeting with Chief of Custody Jerry Sheridan.

2/26/10 Barkell summoned to meet with Hendershott and Deputy Chief Churay. Hendershott told them that he received a call and knew that Munnell was cooperating with the FBI and told everyone to be careful while he "figured out what to do with Frank." Hendershott recommended removing Munnell as Chief of Patrol and having him report to Brian Sands, but Churay and Barkell pointed out to Hendershott that this transfer would be retaliatory.

3/8/10 Barkell told Munnell about the 2/26/10 meeting with Hendershott.

3/15/10 Hendershott "angrily admonished" Barkell in the presence of Chief Jack Macintyre for telling Munnell about his proposed retaliatory action against Munnell. Barkell submitted a memo to Arpaio and he told her not to worry about the matter.

3/16/10 Munnell met with Barkell in the presence of Karen Andrews and was advised of Hendershott and MacIntyre's meeting with her on 3/15/10.

WITNESS ACCOUNTS

Lisa Allen

Lisa Allen claims that at one point, Hendershott came into her office, closed the door, and told her that Frank's wife (Janice) had called, and said that Frank was an FBI informant. Hendershott told her not to speak with Frank anymore. She did know whether Hendershott had an audio recording of the conversation. Allen says that she was upset that Frank's wife had made the call. In a later discussion, Allen was in Loretta's office, and Frank Munnell walked in. Loretta told Allen that she needed to tell Frank Munnell about Munnell's wife having called Hendershott. Apart from information obtained from Barkell, Allen is not aware of Hendershott giving consideration to transferring or demoting Frank Munnell.

1 **Loretta Barkell**

2
3 Barkell indicated that after Frank's wife, Janice Munnell, had spoken with Chief
4 Hendershott by telephone, Hendershott called Loretta and Chief Ray Churay down to
5 his office. Essentially, Hendershott indicated that he needed to decide what to do with
6 Frank, whether to have him work on the 19th floor or in a different area. At that time,
7 Churay spoke up first, and suggested to Hendershott that there be no retaliation against
8 Munnell. Hendershott had been thinking about moving Munnell out of Patrol and
9 reassigning him somewhere else. Barkell was of the impression that Hendershott was
10 looking for input from Churay and Barkell about what they thought would be a good
11 place to place Munnell. Loretta recalled asking Hendershott whether there were any
12 performance issues on the part of Munnell, and Hendershott answered in the negative.
13

14 A few days after this meeting, when Lisa Allen was in the office, Lisa began asking
15 Frank questions about how things were going at home, insofar as Lisa had been told by
16 Hendershott of the call by Janice Munnell. Frank indicated that he was having some
17 problems, so she asked if Frank was in the process of a divorce, and he answered in
18 the affirmative. He also indicated that Janice Munnell was not handling it well. At that
19 point, Barkell turned to Lisa Allen, and said, "You need to tell him," or words to that
20 effect. (p. 80, Exhibit 116a) Lisa Allen subsequently told Munnell what Hendershott had
21 told her, and he appeared to be incredulous that Janice Munnell would have called up
22 Hendershott. Frank was definitely concerned about what was going to happen to him.
23 Loretta indicated that, as the HR person, she needed to tell him the nothing could
24 happen to him, and that if he was lodging a grievance or complaint, there could not be
25 any retaliation against him.
26

27 Later, when Hendershott found out that Barkell had advised Frank of the information
28 that Hendershott had provided, he called Barkell out of her office, and told her to go to
29 the Sheriff Arpaio's office. He then pulled in Jack McIntyre as a witness, and proceeded
30 to, as Barkell put it, "ream me up one side and down the other," in the presence of
31 Sheriff Arpaio and Jack McIntyre. Loretta says this was the first time she actually had
32 confirmation that her office was bugged, because Hendershott repeated back to her
33 exactly what she had said to Frank. Hendershott claimed that he was meeting with
34 Barkell under advice of counsel to let her know that what she had done was wrong, and
35 that she had "betrayed the Sheriff." According to Barkell, Sheriff Arpaio said nothing.
36 She recalls at one point, McIntyre tried to interject, but Hendershott cut McIntyre off.
37 Hendershott indicated that he wanted her to write a memo to Sheriff Arpaio, explaining
38 what had occurred and apologizing for her actions, which she did. Later that day, when
39 she came back from lunch, Sheriff Arpaio called her down to his office, and told her not
40 to worry about what had happened in the morning (during the meeting with
41 Hendershott), asserting that Hendershott "gets excited." According to Barkell, she told
42 Sheriff Arpaio, as the person responsible for HR at MCSO, that Hendershott needed to
43 be pulled under control. The Sheriff responded by noting that Hendershott had a lot on
44 his mind, and that he was stressed. Loretta commented that everyone was stressed,
45 but he could not continue to treat people that way. Sheriff Arpaio indicated that he

1 would talk to Hendershott. She has no knowledge as to whether Sheriff Arpaio did or
2 did not talk to Hendershott on this issue.

3
4 Barkell indicated that when Hendershott had the meeting with her in the Sheriff's office,
5 and chastised her, he was extremely angry, and was "fire red hot in the face." As
6 Barkell put it, "I thought his head was going to spin around and spit out pea soup, he
7 was so angry." (p. 84, Exhibit II6a)

8
9 **Paul Chagolla**

10
11 According to Chagolla, Hendershott never told him that the Chief Deputy was unhappy
12 with Munnell, Terry Young or Scott Freeman. However, as Chagolla put it, "I got the
13 sense that he was, that he felt that they weren't loyal enough." (p. 37, Exhibit II10)
14 When I asked Chagolla to whom he was referring, and who is not loyal enough,
15 Chagolla said, "my peers," but he asserted that Hendershott never provided any names.
16 Chagolla then indicated that he had only gotten a sense that that was the way that
17 Hendershott felt.

18
19 **Ray Churay**

20
21 Deputy Chief Churay said that historically Hendershott had transferred "poor
22 employees" under his command. Chief Hendershott contacted Churay one day and told
23 him that he was going to transfer Munnell to Churay's command. Churay was surprised
24 by the suggestion and asked Hendershott for some details about his suggestion.
25 Hendershott explained that Munnell had obviously been having some personal
26 problems and was going through a nasty divorce. Hendershott indicated that Munnell's
27 wife had called Hendershott, and made numerous allegations against Frank, saying that
28 he was talking to investigators and making accusations against Hendershott.
29 Hendershott told Churay that Frank's wife was very bitter towards Frank and suggested
30 that Frank was being "disloyal to the office" and was "trying to overthrow the Sheriff."
31 Hendershott told Churay that the accusations were "horrendous" and Hendershott said
32 that Brian Sands had either spoken to Frank's wife, or Hendershott had spoken to Brian
33 Sands, but somehow, Sands had been made aware of Ms. Munnell's call. According to
34 the limited information Hendershott provided Churay about his conversation with
35 Munnell's wife, it appeared to Churay that she was suggesting that Frank was an active
36 participant, somewhat of an informant, to either the FBI and/or the AG's office.

37
38 Hendershott told Churay he was not confident in Sands' ability to properly supervise
39 Munnell since Sands had knowledge of the allegations Munnell made against
40 Hendershott. Chief Hendershott asked Churay if he would supervise Munnell and
41 Churay agreed to do so, even though he did not have any openings in his bureau at the
42 time. Churay assumed that Hendershott had confidence in his ability to supervise
43 Munnell and not exacerbate the situation. Hendershott expressed to Churay that Sands
44 was quite upset by the situation and Hendershott feared that Sands would somehow
45 retaliate against Munnell. Approximately a day or two later, Loretta Barkell and

1 Hendershott discussed the situation with Churay, and at that time Churay warned
2 Hendershott that if he was trying to prevent a disparate treatment situation between
3 Sands and Munnell, he was making a mistake, and Hendershott decided not to make
4 the transfer. Churay's comments were as follows.

5
6 A:Well, we could always use the help, but I, I didn't have any, any
7 particular openings for, I didn't have a Captain at the time, and he could have
8 assumed that role and still had the break from Deputy Chief. I, I was, I was down
9 one Captain because the County refused to fill the Captain on the Homeland
10 Security side, which was Phil Babb, by the way. So, my, I immediately told, told
11 Hendershott, I said look, if your intentions are to not create a disparate treatment
12 situation, by transferring him, you've just done exactly what you're trying not to
13 do. And I said, that is going to be viewed as treating him differently because of
14 what you received from his wife. I said, this is the wrong thing to do, Dave,
15 you're, you're better off leaving him under Munnell, and...

16
17 Q: You mean under Sands?

18
19 A: Yeah, under Sands, leaving him under Sands and caution Sands to be very
20 careful about any discipline or, or any, any different treatment that he gives him
21 than any of his other Chiefs. And Dave thought for a few moments and he looked
22 at Loretta and Loretta told him the same thing, I think what you're doing is you're
23 basically, you're, you're causing exactly what you don't want to happen by
24 transferring him. He thought for a few more moments, he says, you know, you
25 guys are right, I'm not going to do it, never mind, see you later, we left.

26
27 Q: So, he decided not to do it based on the counsel that he got from you and
28 from Loretta?

29
30 A: Yes, right.And so he didn't do it and I think, I think it was probably
31 two days after that that Frank, if you, the way my office faces, there's an exit that
32 goes down the hallway, and I didn't say anything to Frank, cause I didn't believe
33 it was appropriate, there was nothing going to happen, I thought that was a
34 confidential conversation, but apparently Loretta did tell Frank that this had
35 occurred. And I was sitting in my office and I looked up and Frank was kind of
36 half way down the hallway to the exit and he was pointing at me, and he had a
37 strange look, he was just pointing at me, and I looked at him and he just shook his
38 head and pointed at me again and then turned around and left, and then went out
39 the exit. And I'm thinking, what was that all about. And so, I thought, you know
40 what, I'll just let Chief Hendershott know this happened, just in case something
41 happens to me.... (p. 28, Exhibit II11)

42
43 Hendershott directed Churay to prepare two memos regarding the events that had
44 transpired with Munnell, Hendershott and Barkell. Churay said he did not want to
45 prepare the memos, but did as he was directed and gave Hendershott the memos.

1 Churay denied ever discussing the possible transfer or the allegations with Brian Sands.

2
3 Deputy Chief Churay indicated that he had read the memo authored by Frank Munnell
4 and said he had a brief conversation with Munnell 3-4 days prior to the day Munnell
5 gave the memo to Sheriff Arpaio, which he assumed was the same day it was released
6 to the media. Munnell told Churay that Churay had done the right thing, telling
7 Hendershott that he should not transfer Munnell under Churay's command, and Munnell
8 told Churay that there were "going to be changes around here," indicating that
9 something was going to happen, but Munnell did not mention the 63 page memo he had
10 prepared. Munnell told Churay that he appreciated his help, and Churay told him, "that
11 my actions were more than ethical move in nature, that I, I wasn't helping him, I wasn't
12 helping Hendershott, I just felt that it would be inappropriate if he was transferred at that
13 time, for a variety of reasons." (p. 4, Exhibit II11)

14
15 **Jerry Sheridan**

16
17 Hendershott informed Sheridan, in Hendershott's office, that he had gotten a phone call
18 from Munnell's wife, who indicated that Munnell, Scott Freeman, Don Schneidmiller and
19 Bill Knight were cooperating with the FBI, and that Sheridan was to be "careful what you
20 say around them." (p. 34, Exhibit II37) Hendershott told Sheridan that the Sheriff's
21 Office was not going to do anything with them, especially with Munnell, and told
22 Sheridan to make sure that Sheridan did not retaliate against him. Sheridan understood
23 that it was the plan of Clarisse McCormick to get everyone together and council them on
24 avoiding retaliation. Hendershott never told Sheridan that he was considering
25 transferring Frank Munnell from the position of Chief of Patrol.

26
27 **David Hendershott**

28
29 Hendershott made the following general statement.

30
31 A: So the trans, and let me just make a statement. It's the Sheriff that wanted
32 to make transfers. And, Frank was never on tap to be transferred because of all
33 this. Okay? And this was, this whole thing was discussed with attorneys, myself,
34 the Sheriff, all that kind of stuff. So, Frank, what was happening to Frank is
35 something that we, we worked so hard because we knew the possibility that Frank
36 would say he's being harassed. So, between counsel, the Sheriff, myself, we did
37 everything we possibly could, possibly do to not give the appearance that we were
38 in some way harassing him or doing everything, er, doing anything to him.
39 Okay? And at the same time the Sheriff wanted to make some transfers. So that
40 had been cooking along, frankly, for quite a long while.... (p. 1, Exhibit II16f)

41
42 Hendershott indicated that the Sheriff had been wanting to make transfers well before
43 the time that Janice Munnell had called up Hendershott. While Hendershott indicated
44 that the Sheriff had given consideration to transferring Scott Freeman, the Sheriff had

1 not expressed any inclination to move Munnell to a different position besides Chief of
2 Patrol.

3
4 Hendershott acknowledged that, after the call from Janice Munnell, he did confer with
5 Loretta Barkell, Lisa Allen and Ray Churay about that call and what to do about the
6 situation. He says that he met with Loretta and Ray Churay, told them about that call,
7 and indicated that they were going to be meeting with attorneys later that day. When
8 asked what transpired in the meeting with Ray Churay and Loretta Barkell,
9 Hendershott's comments were as follows.

10
11 A: Basically, it was kind of a real brief overview and to let them know we
12 were going to have a meeting that afternoon. Okay?

13
14 Q: Right.

15
16 A: Now, there was no need for Ray to be there, but I just asked Ray in there
17 to give me some, you know, of his thoughts because he worked with the Bureau
18 and he was the ASAC for the Bureau and handled this a lot. And, so, I thought it
19 was a good idea to have Ray in there, too.

20
21 Q: Well, was there any suggestion in that meeting about the possibility of
22 transferring Frank? It sounds like there was. (p. 9, Exhibit II16f)

23
24 Hendershott's response was as follows.

25
26 A: Because Brian [Sands] was one of the donors, okay, he was one of the
27 donors to that SCA deal to Joel. I'm just using that as a form to identify whatever
28 it, whatever it really is. But, so the question is . . .

29
30 Q: Well, what's the problem there? I mean...

31
32 A: Well, the problem there is, is the potential because Brian was a donor,
33 okay, is...

34
35 Q: Well, I understand that part, Chief, but you were a donor, too. I mean,
36 there's a lot of different donors.

37
38 A: No, no. But, I'm trying to think how do we continue if, for example,
39 Frank ran patrol and worked for say Ray Churay or worked for Jerry Sheridan
40 and, you know, and perhaps that's a way to buffer that. Because if, for example,
41 Brian had to discipline Frank for something that he'd done or criticize him, or do
42 anything, you know, that would be a way as oh, I'm just getting picked on
43 because of this. Okay? So, you know, we're talking about the very beginning of
44 this and frankly, until we sat down with the lawyers I don't think that we got a
45 really clear picture about the way to structure this. (p. 10, Exhibit II16f)

1
2 Hendershott claimed that he was concerned about Frank continuing to report to Brian
3 Sands, because Sands was also an SCA donor. Hendershott indicated that he was
4 thinking about having Frank work for Ray Churay or Jerry Sheridan, who were not
5 contributors to SCA, and as Hendershott put it, "perhaps that's a way to buffer that."

6
7 Hendershott ultimately acknowledged, in the interview, that he suggested in that
8 meeting with Loretta Barkell and Ray Churay a way to have Munnell report to someone
9 else who perhaps wasn't "in the loop," apparently referring to SCA. Hendershott
10 indicated that it was a conversation "about how to handle Frank in preventing any
11 potential conflicts," not to move him. (p. 10, Exhibit II16f)

12
13 Hendershott claims that Munnell later learned about the discussion, and "saw the
14 opportunity to twist the facts into his favor." (p. 11, Exhibit II16f) Hendershott claims
15 that he was not considering moving Munnell from the position of Chief of Patrol, but
16 rather having him to report to someone else besides Brian Sands.

17
18 When asked again whether the possibility of moving Munnell from the position of Chief
19 of Patrol was discussed in the meeting with Barkell and Churay, and they thought it was
20 a bad idea, Hendershott's response was as follows.

21
22 A: Sure. And I knew that. They didn't have to tell me. But, I asked them,
23 well, what do you think. And, I think it was Ray said something like that. But,
24 Loretta agreed and I agreed. I knew that, but that doesn't mean, I mean, that's, I
25 knew that, okay. But it seems to me that Ray had said something. I knew that.
26 So, I was thinking down the right path. And it, I can tell you absolutely we got to
27 get Frank out of patrol, this, is, beat you know. You know, that, that's not the
28 case. There was a lot more that had to be done besides the issue of the chain of
29 command for Frank. There was training, there was, you know, there were
30 notifications to the Federal organizations. There was a lot of stuff and from that
31 point on I don't think I said three words to Frank for, well, any three words to this
32 day. I mean, maybe in staff would say Chief, you got anything? That's it. Never
33 privately. Never, you know. (p. 11, Exhibit II16f)

34
35 Hendershott indicated that in the meeting, Barkell and Churay may have indicated to
36 him that transferring Frank might be considered retaliatory, but as Hendershott put it, "I
37 knew that, they didn't have to tell me." (p. 12, Exhibit II16f) He did ask them what their
38 opinions were. Hendershott recalls that Ray Churay said that it would not be a good
39 idea to transfer Frank, and both Barkell and Hendershott agreed.

40
41 Loretta Barkell ultimately prepared, at the request of Hendershott or Sheriff Arpaio, a
42 memo relating her disclosure of what took place in this conversation with Hendershott
43 and Barkell, to Munnell himself, and her conversations with Lisa Allen.
44